IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL SIDE JURISDICTION

WRIT PETITION (L)NO.1588 OF 2007

Virendra R Mishra Petitioner.

Vs

Union of India and ors ..Respondents

Mr Suneet Chaturvedi i/b M/s S.C. Chaturvedi and Co for the petitioner
Mr. G. Hariharan with Mr. N.R Prajapati i/b Dr.T.C.Kaushik for respondent No.2.

CORAM: SWATANTER KUMAR, C.J., &
Dr.D.Y.CHANDRACHUD, J.
Dated: 9th August 2007

P.C.:

The petitioner, a resident of Mumbai, has filed the present petition under Article 226 of the Constitution of India praying that the nomination filed by respondent No.3 to contest the election for the post of Vice President of India be rejected by respondent No.2 and he be not permitted to participate in the election to be held on 10th August 2007. To substantiate this prayer the petitioner has referred to certain facts and more particularly certain interviews given by the said candidate, allegedly on Aaj Tak T.V News channel in propgramme dated 16.7.2007

and 23.7.2007 in Sahara news. The contention raised is that the statement made by respondent No.3 are of nature, which offends the spirit of Article 25 of the Constitution of India and because of such religious fundamentalism, he is not a fit candidate for contesting to such high post.

Having heard the learned counsel for the petitioner, we are of the considered view that the present petition itself is not maintainable for the reason that the election process has already commenced and it is a settled proposition of law that, once an election process has commenced, the court would be least inclined to interfere in exercise of its extra ordinary jurisdiction under Article 226 of the Constitution of India. Furthermore , the learned counsel for the petitioner has not brought to our notice any provisions by which disqualification has been earned by respondent No.3, either under the Representation of Peoples Act or under the Constitutional mandate for contesting the said election. It is not for the court to examine whether a candidate for such high office is fit or not. This is not the forum, of which the petitioner should invoke the jurisdiction under Article 226 of the Constitution of India.

We find that the present petition is neither maintainable nor has any substance, which would justify judicial intervention at this stage. Petition is dismissed with no order as to costs.

CHIEF JUSTICE

Dr. D.Y.CHANDRACHUD, J.